

BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 09 DHC 7

The North Carolina State Bar, Plaintiff,)	
	·· V .·····))	COMPLAINT
Reginald D. Alston, Attorney,	Defendant.)))	

Plaintiff, complaining of defendant, alleges and says:

- 1. Plaintiff, the North Carolina State Bar, is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the rules and regulations of the North Carolina State Bar promulgated thereunder.
- 2. Defendant, Reginald D. Alston, (hereinafter "defendant"), was admitted to the North Carolina State Bar on August 23, 1997, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and Revised Rules of Professional Conduct of the State of North Carolina State Bar and the laws of the State of North Carolina.
- 3. During all or a portion of the relevant periods referred to herein, defendant was actively engaged in the private practice of law in the city of Winston-Salem, Forsyth County, North Carolina.

Upon information and belief, plaintiff alleges:

FIRST CLAIM FOR RELEF

- 4. On or about June 20, 2007 defendant went to the office of the Ashe County Clerk of Superior Court to file motions in case number 03SP116, a special proceeding before the Clerk of Superior Court.
- 5. Defendant started to "argue" his case at the front counter and become aggressive towards the staff of the office. Defendant was rude, belligerent and demanding.
- 6. The Clerk of Superior Court, Ms. Pam W. Barlow, approached defendant and introduced herself as the Clerk of Court for Ashe County. Defendant continued to "rant and rave" about stopping the scheduled partition sale in 03SP116.
- 7. Ms. Barlow told defendant he had filed his motions and that she would be glad to look at them. When defendant was asked if he had proposed orders to submit with the motions, he responded that he did not have to have a proposed order.
- 8. On June 26, 2007 Ms. Barlow agreed to hold a conference call with all of the attorneys' involved in 03SP116, regarding the motions filed by defendant and the partition sale set for June 29, 2007. Defendant was to initiate the conference call.
- 9. After Ms. Barlow waited for approximately 15-20 minutes past the scheduled time for the conference call, she contacted defendant, who told her he did not have the capability for a conference call and that she could initiate the call.
- 10. When Ms. Barlow tried to initiate the call, it took approximately 30-40 minutes to reach defendant even though he had agreed to be there for the call.
- 11. Defendant was belligerent and rude during the conference call, ignoring Ms. Barlow's request to calm down and talk within reason.

- Ms. Barlow verbally ordered the delay of the partition sale scheduled for June 29, 2007 until defendant's motions could be heard. A Notice of Hearing was issued by Ms. Barlow for defendant's motions to be heard on July 24, 2007.
- 13. At the July 24, 2007 hearing held before Ms. Barlow, the Clerk of Superior Court, defendant disregarded requests and orders when he addressed the court. Defendant badgered the court and witnesses. Defendant would jump from his seat, fling his hands, point fingers and speak out of turn.
- 14. At the close of the hearing, the court announced it would reserve ruling until it carefully considered the evidence and testimony.
- 15. Following adjournment of the July 24, 2007 hearing, defendant went directly to the Office of the Clerk and asked for a copy of the tape recording from the hearing.

 When told a copy would be mailed to him, defendant started jabbing his finger at a Deputy Clerk and stated "my life's goal is to have your boss' job", and continued to make accusations of unethical behavior concerning Ms. Barlow, the Clerk of Court.
- 16. By order dated August 6, 2007, the Clerk of Court ordered the parties to mediation.
- 17. After the mediation came to an impasse, the Clerk entered an order in 03SP116 concerning the issue of partition on October 15, 2007.
- 18. During a phone call on or about October 17, 2007 defendant accused Ms. Barlow of unethical behavior and incompetence.
- 19. On or about November 14, 2007 defendant filed a Motion for Order to Show Cause to have Ms. Barlow held in contempt as a result of her October 15, 2007 order.

- 20. On August 1, 2008, Superior Court Judge W. Erwin Spainhour entered an order denying defendant's motion to have Ms. Barlow held in contempt and made Conclusions of Law in part as follows:
 - 5. There is no basis in law or in fact for the Motion to Show Cause for an Order seeking to hold the Honorable Pamela W. Barlow, Clerk of Superior Court, Ashe County, North Carolina, in contempt.
 - 6. The Motion for an Order to Show Cause was improperly brought, without a factual or legal basis.
- 21. Judge Spainhour awarded the NC Department of Justice \$3,298.33 for costs and fees incurred by the Department in defending Ms. Barlow in connection with the contempt proceeding initiated by defendant.

THEREFORE, plaintiff alleges that defendant's foregoing conduct constitutes grounds for discipline pursuant to N.C. Gen. Stat. §84-28 (b) in that defendant violated the Revised Rules of Professional Conduct in effect at the time of his action as follows:

- a. By filing an improper Motion for an Order to Show Cause against the Ashe County Clerk of Superior Court without a basis in law and fact, defendant filed a frivolous claim and contention in violation of Rule 3.1 of the Revised Rules of Professional Conduct.
- b. By repeatedly engaging in rude, belligerent, and otherwise discourteous behavior to the court, defendant engaged in undignified or discourteous conduct that is degrading to a tribunal in violation of Rule 3.5(a)(4)(B) of the Revised Rules of Professional Conduct.

c. By engaging in discourteous behavior before the court and filing an improper motion to have the Clerk of Court held in contempt, defendant engaged in conduct that is prejudicial to the administration of justice in violation of Rule 8.4(d) of the Revised Rules of Professional Conduct.

WHEREFORE, plaintiff, the North Carolina State Bar, prays that:

- 1. Disciplinary action be taken against defendant in accordance with N.C. Gen. Stat. §84-28 and 27 N.C.A.C. 1B §.0114 as the evidence may warrant.
- 2. Defendant be taxed with the costs permitted by law in connection with the proceeding; and
- 3. For such other and further relief as is appropriate.

This the 22nd day of April, 2009.

James R. Fox, Chair Grievance Committee

William N. Farrell

Deputy Counsel

The North Carolina State Bar

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